

No Child Left Behind: A Road Map for State Implementation

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Foreword

Four years ago our nation set out on the road to real educational reform. The journey was launched with the bipartisan passage of the *No Child Left Behind Act*. While there have been twists and turns along the way, it is clear that our schools and students are headed toward a brighter future.

We take another step forward with the release of “The Road Map to State Implementation,” a blueprint to achieve the goals of *No Child Left Behind*. It describes how the Department – together with parents, educators and policymakers – is making the law work for States, schools and students.

The Road Map breaks down a sometimes-complex law into clear, common-sense principles, such as annual student assessment, disaggregation of data and proficiency by 2014. And it demonstrates the variety of fair and reliable methods being used to turn those principles into action. We want States to always be headed toward the right destination, even if how they get there differs along the way.

The Road Map follows our announcement last spring of a New Path for *No Child Left Behind*. It was designed to reward States that showed real progress in reaching all students and improving academic achievement. We are pleased with the positive response they’ve shown.

Recently, we received additional confirmation that we’re on the right track. The Nation’s Report Card’s long-term and State-by-State results show a nation raising achievement levels and closing the achievement gap. Fourth- and eighth-grade math scores have risen to all-time highs, and among nine-year-olds more reading progress was made in the past five years than in the previous three decades.

For education reform to truly take hold, however, we must identify and share the best practices that have contributed to this success. And we must dispel myths about the law that have led some to place roadblocks in its path.

Many people at the State, local and national level deserve credit for helping us implement *No Child Left Behind*. Our nation’s Governors deserve a special thanks. They share our ambitious vision for what our children can achieve, and our desire to eliminate the “soft bigotry of low expectations.”

If we expect the best, that’s what we’ll get. I am proud to report that’s the direction our nation and its schools are headed.

Sincerely,

Margaret Spellings
U.S. Secretary of Education

As we approach the fourth anniversary of the passage of the No Child Left Behind Act of 2001 (NCLB), the educational landscape in the United States has been fundamentally changed. NCLB was a national endorsement of the conviction that every child matters and that every child can learn. The law and its key goals – to dispel what President Bush called the “soft bigotry of low expectations” and to help all students achieve – were supported and passed by overwhelming bipartisan majorities in Congress.

NCLB was, and remains, an ambitious vision for our Nation’s schools. It aims to raise achievement for every child. It pushes the education community to identify and use what works. It provides educators, parents, policymakers and the public with unprecedented data about student and school performance. NCLB holds schools accountable for student learning and asks that teachers receive the skills they need to help children learn.

NCLB is a law of principles. Since Secretary Margaret Spellings took the helm at the U.S. Department of Education (Department) earlier this year, she began describing the law’s “bright lines” – the essential and indispensable markers on the road to implementing NCLB:

- *Assessments in Grades 3-8:* What gets measured is what gets done. States must test all students annually in reading and math in grades 3 through 8 and once in high school by the 2005-06 school year – not every other year or every other class, but all students every year.
- *Disaggregated Data:* Data are our best management tool. States and districts must provide data on student achievement by subgroup, inform parents in a timely manner about the quality of their child’s school, disseminate clear and understandable school and district report cards, and provide parents and the public with an accurate assessment of the quality of the teaching force.
- *Proficiency by 2013-14:* All education reform efforts, from federal and State policies and programs to individual classroom strategies, must strive to be informed by the best of what we know from research and focus on the bottom line of raising student achievement and closing achievement gaps. States must include all students in school accountability systems and set targets for all students to reach State standards for proficiency in reading and math by 2013-14.
- *Highly -Qualified Teachers:* States are responsible for implementing a rigorous system for ensuring teachers are highly qualified, making strong efforts to ensure that all students have access to highly qualified teachers, and providing support for recruiting and retaining the best and brightest teachers to our schools.
- *Options for Families:* Education consumers – especially families of children attending persistently low-performing schools – deserve opportunities such as access to tutoring services, charter schools, and the ability to move their child to a school more suited to his or her needs if the current school is not meeting them.

TECHNICAL ASSISTANCE FOR STATES IMPLEMENTING NCLB

In September 2005 the Department awarded new grants to establish regional and content-focused technical assistance centers to assist States in implementing the programs, policies, and goals of No Child Left Behind. Because States have the primary responsibility for district and school improvement, these centers will focus their technical assistance on helping States increase their capacity to provide sustained support to districts and schools.

- Sixteen awards support Regional Comprehensive Centers. The Regional Centers serve as frontline providers of services to States within defined geographic boundaries to help States implement the provisions and meet the purposes of NCLB.
- Five content centers, national in scope, work closely with regional centers to provide focused expertise and assistance based on deep content knowledge to States in several key school improvement issues. The five Centers with specific topical expertise and focus are: the Center on Assessment and Accountability, the Center on Instruction, the Center on Teacher Quality, the Center on Innovation and Improvement, and the Center on High Schools.

For more information on the technical assistance centers serving your State, see:

<http://www.ed.gov/programs/newccp/index.html>

The Road We've Traveled

Four years ago, NCLB set the goal: proficiency for all students by 2013-14. States quickly responded. Within 18 months of the law's passage, all 50 States, the District of Columbia, and Puerto Rico had submitted detailed plans for meeting NCLB's student achievement goals. This historic occurrence reflected the growing commitment from every State to embrace the goals of NCLB. Each and every State accountability plan was, and remains, different, reflecting the uniqueness of each State as well as the variety of paths available for States to reach their student achievement goals.

Results to date suggest this is a road worth traveling. Student achievement is improving in the United States, and student achievement gaps are closing. According to the most consistent measure of student achievement over time in the United States, the National Assessment of Educational Progress (NAEP), reading scores for 9-year-olds increased more during the last five years than in all of the previous 30 years combined since the test was first administered. African-American and Hispanic students also posted some of the biggest gains in NAEP's history.

The “bright lines” of NCLB – a laser-like focus on student achievement, regular student assessment, school accountability, clear and accessible information about school performance, and a highly qualified teacher workforce – are now accepted education principles. NCLB shines a light in particular on students who have so often been left behind in our Nation’s schools – African American and Hispanic students, students with disabilities, students with limited English proficiency (LEP), and economically disadvantaged students.

As a result, in 2005, our energies turn toward the finer points of navigating the road to meeting NCLB’s goals. States are refining and raising standards, developing assessment tools, and improving school performance measurements to make increasingly valid and reliable accountability judgments. States and districts are working to tailor policies, training, and incentives to ensure that we recruit and retain the best and brightest teachers. Educators, researchers, and policymakers are working together to study education strategies and move towards proven classroom practices, especially for disadvantaged students. We still have a long way to go down the road to meet our achievement goals for all of America’s students, but this activity shows how far we’ve already come under No Child Left Behind.

The Road Ahead

As implementation of NCLB matures, the Department continues to learn about and respond to the law’s translation from paper into action. NCLB was not designed to dictate exact processes, but to promote innovation and improve results for students.

Earlier this year, Secretary Spellings announced a sensible and workable path for implementing NCLB. She pledged to listen closely to States and consider, if States continue to abide by the “bright-line” principles of NCLB, how the Department may support some flexibility on the specifics of how States reach student achievement goals.

This document maps out the strong, sensible, and workable approach to implementing NCLB that the Department has adopted in the following areas:

- Peer Reviews of State Standards and Assessment Systems
- Refinement of Accountability/Adequate Yearly Progress (AYP) Measurement
- Assessments for Students with Disabilities
- Assessments for Limited English Proficient (LEP) Students
- Supplemental Educational Service (SES) Pilots
- Meeting Highly Qualified Teacher (HQT) Requirements

This document will help States and local educators understand what the Department expects as it reviews State policies and considers alternate policy options and flexibility for implementing specific requirements of NCLB.

Peer Reviews of State Standards and Assessment Systems

Student assessment is vital for school accountability. For the purposes of NCLB, assessment provides not only independent insight into each school's progress but also a clear picture of each child's progress so that no child, regardless of race, ethnic group, disability, language, gender, or family income, will be shuffled through school with educators not knowing whether the student acquired the basic math and reading skills needed to succeed.

NCLB places a special emphasis on reading and math by requiring States to assess their students yearly in grades 3-8 and once in high school in those subjects. By the 2007-08 school year, NCLB requires States to assess their students in science at least once during each of three grade spans: 3-5, 6-9, and 10-12.

The critical components of standards and assessments are developed, designed, and determined by States. In designing standards and assessments, States must ensure that the tests measure the content they want their students to know (i.e., alignment). States must examine the rigor of their standards and tests – how high they set the bar for achievement. States must consider how well students must master material to be successful in school, in college, and in their future careers, and to be contributing members of society.

States must determine how specific their content standards will be – grade-by-grade, course-by-course – and also must set achievement levels on tests to measure attainment of those content standards. States also must address how schools can receive meaningful data on student performance so that the information can be used to improve instruction.

The 2005-06 school year marks the deadline for States to have in place annual reading and math tests in grades 3-8 and once in high school. Accordingly, the Department will review State standards and assessment systems.

ASSESSMENT PEER REVIEW RESOURCES

Peer reviewers advise the Department on whether a State provides compelling evidence that its assessment system is consistent with NCLB requirements based on the totality of evidence submitted. Peer reviewers also provide constructive feedback to help States strengthen their assessment systems. The guidance that informs this process can be found on the Department's Website at:

<http://www.ed.gov/policy/elsec/guid/saaprguidance.doc>

The Department has prepared a user guide for States preparing peer review submissions. See:

<http://www.ed.gov/admins/lead/account/peerreview/usersguide.doc>

To determine whether States meet the NCLB standards and assessment requirements, the Department is using a peer review process involving experts in those fields. The peer review process will not directly examine a State's specific academic standards, assessment instruments, or test items. Rather, it will examine evidence compiled and submitted by each State that demonstrates that the assessment system as implemented meets NCLB requirements.

Such evidence may include, but is not limited to, results from alignment studies, results from test validation studies, written policies on providing accommodations for students on assessments, and score reports showing student achievement data broken out by the required student subgroups. The peer reviews examine the following areas:

- *State Standards:* Academic content and achievement standards in reading and math in each of grades 3 through 8 and in the 10 through 12 grade span; and alternate achievement standards, if any, in reading and math for students with the most significant cognitive disabilities.
- *State Reading and Math Assessments:* Aligned assessments in reading and math in each of grades 3 through 8 and once in grades 10 through 12; alternate assessments aligned to grade-level standards for students with disabilities; and assessments, if any, aligned with alternate achievement standards for students with the most significant cognitive disabilities.
- *Science:* Academic content standards in science in grade spans 3 through 5, 6 through 9, and 10 through 12; and descriptors of academic achievement levels for science in the three grade spans.

To date, the Department has completed initial reviews of 13 State assessment systems and expects to review all State systems required by NCLB by the end of May 2006.

As a follow-up to these reviews, each State receives detailed technical feedback. Each of the States reviewed to date were asked to submit additional evidence to the Department. Decision letters to the States and details on additional submission requirements are available at: <http://www.ed.gov/admins/lead/account/nclbfinalassess/index.html>

One consistent issue emerging from early peer reviews is the need for additional work with alternate assessments – each of the States reviewed to date was asked to submit additional evidence related to the alignment of alternate assessments to grade-level standards and their technical quality.

NEW ALTERNATE ACHIEVEMENT STANDARDS GUIDANCE AVAILABLE

In August 2005, the Department released new non-regulatory guidance on alternate achievement standards for students with the most significant cognitive disabilities. See:

<http://www.ed.gov/policy/elsec/guid/altguidance.doc>

Another emerging issue is the need for States to ensure that student report cards are clear and that they explain what the students have learned.

To support State design and selection of assessments aligned to standard, the Department has funded a technical assistance center to support States' development of alternate assessments, and a second center to help with grade-level assessments. The Department also provides more than \$400 million in annual formula grants to States to help pay the cost of developing tests, to help improve existing tests, and to help pay for the administration of those assessments. These funds also support training related to assessments and improved data reporting.

States can use these funds to work in partnership with other States to develop standards and assessments. For example, the New England Compact States – Rhode Island, New Hampshire, and Vermont – worked together to develop more rigorous and cost-effective reading and math exams that were administered in grades 3-8 across all three States for the first time this year.

Refinement of Accountability/Adequate Yearly Progress (AYP) Measurement

Because each State is unique, no two State accountability plans are identical. States have designed unique approaches to meeting NCLB accountability requirements that fit their own context.

States may continue to use school labels, scores, and other accountability elements (including existing State interventions and rewards) that educators, parents and the public already understand. Some States, such as California and Louisiana, use their State accountability systems that pre-date NCLB as additional academic indicators. Other States, such as Texas and Virginia, give schools two separate ratings – a State rating and NCLB rating. A few States, like Ohio and North Carolina, use AYP ascension as a condition for schools achieving the highest State rating.

Within the bounds of the “bright lines” of NCLB principles, the diversity of State education systems will necessarily result in different approaches to AYP definitions. This diversity is seen in changes to State plans. For the 2004-05 school year, the Department approved some requested changes to 47 States' accountability plans under NCLB. To dispel one myth, the State requests do not represent “rebellion” as some press reports have suggested. Instead, they represent the efforts of States to learn from one another and incorporate that experience into meaningful and sophisticated accountability systems.

STATE ACCOUNTABILITY PLANS

Information about each State's accountability plan, letters reflecting the Department's decisions on State-proposed amendments, and a description of the process States use to amend NCLB plans is available on the Department's Website at:

<http://www.ed.gov/policy/elsec/guid/stateletters/index.html>

As States develop and refine their accountability plans under NCLB, and especially as they look to the experiences of other States' development of accountability systems, they should consider the following. First, State context matters. Second, within each State context – considering diversity of student populations, number of schools, size of schools, and other factors – States must strike a fair balance when making school accountability decisions. States must design accountability systems that are both valid (accurately identifying schools not reaching their academic goals for all students) and reliable (with accountability judgments based on sound data).

This balancing act means that there is no single dimension of an accountability measurement for AYP that can be understood outside the context of the many pieces of data, statistical tests, and safeguards that make up the whole measurement. It also means that there is no single State definition of AYP that can be adequately understood outside the context of the State within which it is used for school and district accountability.

For instance, in order to determine whether student subgroups are making annual progress toward meeting achievement goals, States may set minimum group sizes or “n” sizes. A group size or “n” size reflects how many students of a particular population must be enrolled in a tested grade or in a school for the assessment scores of those students, taken together, to be a reliable basis for making judgments about how well that population is performing academically. In a large State with a diverse population of students, those “n” sizes can be larger and still be met by most schools.

Other States may want employ a statistical test to increase confidence in AYP determinations. In smaller States, or States with many small schools, such a test – a “confidence interval” – can help guard against making significant accountability decisions based on fluctuations in school performance or on the assessment results from a relatively small group of students.

There are other options as well. States may average student achievement data across grades and years to ensure more reliable AYP decisions. They may make different decisions about how to incorporate additional indicators into their AYP ratings. They may use “safe harbor” provisions or a growth index to factor improvements in student performance among the lowest performing students to make AYP determinations that are both valid and reliable.

How States determine which mix of strategies to use in their AYP definitions depends on numerous factors including, among other things, the size of schools, number of tested grades, diversity of student populations, sophistication of data systems, capacity of staff, and need to protect student privacy.

Following is a review of some of the significant areas used by States in designing AYP definitions. It includes explanations about how the Department decided to accept such diverse approaches.

While approved changes to State accountability plans are not uniform across the States, our criteria for evaluating and approving such changes are uniform. They reflect the Department’s commitment to maximizing accountability while minimizing error in measuring school performance.

“N” Sizes

States must be concerned about setting “n” sizes too low or too high. If States define subgroups as a very small number of students, while there may be a very high level of accountability for that population, judgments about how well schools are serving those populations of students may be based on a very small number of test scores and therefore may not be as reliable independent of other controls. In that situation, States are including other statistical controls to ensure reliable decisions. On the other hand, if States define subgroups as an overly large number of students – set “n” sizes too high – schools may not be properly held accountable for the performance of all students because such schools may not have a very large number of minority, low-income, limited English proficient, or special education students in their classrooms.

As a result, there is no single ideal “n” size for school accountability. States must achieve a balance between making accountability determinations based on enough student achievement data to be reliable, but not requiring such determinations to be based on results from so many students that schools can avoid accountability for most specific student populations.

For the purposes of holding schools accountable for subgroup performance, the Department has approved a range of State approaches. The most commonly used “n” size falls between 30 and 40 students with a confidence interval (see below) added. Some States, such as in California, Georgia, and Washington, identify a percentage of a school population to set group sizes.

Confidence Intervals

Most States now also combine a minimum “n” size with a “confidence interval” around test scores (ranging from 90-99 percent). A confidence interval is a statistical test applied to make AYP judgments more reliable by taking into account small fluctuations in test scores. To give an easy-to-understand example: if the school’s reading goal is to have 50 percent of its students at grade level, without a confidence interval, the school must have at least half its students reach that standard to make AYP. A “close but not quite” outcome of 48 percent of the students at grade level would mean the school didn’t make AYP. If a confidence interval is applied, it allows the school to receive credit for those “close” outcomes, particularly when the decision is based on smaller groups of students. The differences in the actual confidence intervals (ranging from 75 percent to 99 percent) reflect how confident one is in the decision; the higher the intervals, the more trust one can have about the decision.

As with many statistical ideas, the application of a confidence interval isn't as simple as making the goal, for example, 50 percent "give or take a few points." Those "few points" will be more or less dependent on several factors, including the size of the interval, the number of students involved, and the actual goal.

States requesting State plan amendments have most often requested a 99 percent confidence interval for calculating AYP. Iowa applies a 90 percent confidence interval; Maine and New Hampshire use 95 percent confidence intervals. Minnesota uses a sliding scale confidence interval (from 95-99 percent) that increases depending upon the number of student subgroups in an individual school. In many cases, a State's Technical Advisory Committee – industry experts that each State selects and relies upon to improve reliability and validity of the testing system – advised the State to establish these standards.

Confidence Intervals for Safe Harbor

States have adopted various statistical tests to reduce the possibility of schools not making AYP or being identified for improvement on the basis of chance. Many States have adopted confidence intervals for examining whether or not a subgroup has met its target in reading or math, as described above. In addition, States have proposed applying a confidence interval of 75 percent to their safe harbor calculations. The Department approved such amendment requests for the 2004-05 school year for California, Delaware, Indiana, Montana, Oklahoma, South Dakota and Wisconsin.

The Department requested State data demonstrating the impact of this flexibility on the number of schools determined to be making AYP with or without the use of a confidence interval for safe harbor decisions. Based on these impact data from States, the policy appears to give States some additional precision and confidence in the decision without significantly changing the number of schools making AYP under safe harbor.

Uniform Averaging

States have the flexibility to determine average student performance data across years to make AYP. States may use one, two, or three years of data in calculating AYP. Further, States can compare one year of data to two or three years of data in making final AYP determinations for individual subgroups of students or schools. States that average data across years when calculating AYP argue that it enables a State to give schools the benefit of recent improvements or to limit the effect of a poor achievement in one isolated year.

Since the 2004-05 school year, the Department approved requests to use a uniform averaging procedure in the following States: Alabama, California, Hawaii, Kentucky, Maryland, Michigan, Minnesota, Montana, New Mexico, Rhode Island, Tennessee, and Washington.

Pulling the Statistical Pieces Together

One example has received a good deal of press attention: Florida requested a change in “n” size from the Department this year. They requested an “n” size of 30 students (as long as that subgroup constitutes at least 15 percent of the student body) or 100 students – whichever is smaller. What this means is when there are 100 students in a subgroup (such as Hispanic students), the school is held accountable for those students. It also means that if there are as few as 30 students in a group and that group constitutes at least 15 percent of the population, the school is also held accountable for those students.

As the Department considered this request, it became clear that certain characteristics about Florida and its schools supported this request – characteristics that would not be true of every State. For example, Florida has some of the largest and most diverse schools in the nation. Florida bases its count on all students in the school, thus expanding accountability throughout the school instead of limiting it to those who are in the tested grades. The data showed that the number of schools accountable for various student groups remained quite high – higher in fact, than many States with lower “n” sizes. Lastly, the use of “n” size is the only statistical check Florida uses to determine AYP; the State does not use a confidence interval or uniform averaging. The myth that Florida schools are not accountable for the academic performance of poor students or Hispanic students or students with disabilities is simply not born out by the data. It is equally untrue that this same approach would or should work in every State – the data would not support that either.

In some rural States or States with many small schools, a different mix of statistical measures may be appropriate. For example, States with smaller school populations or fewer tested grades have often asked the Department to approve smaller “n” sizes; setting larger subgroup sizes would leave many groups in many schools out of the accountability system. These States include other measures such as confidence intervals and uniform averaging of data over several years to safeguard against errors that might cause schools to be incorrectly identified as making or not making AYP based on small fluctuations in scores, students tested, or student population.

When approving accountability amendments such as a change in “n” size, the addition of a confidence interval or uniform averaging, the Department looks at all these factors in combination. Each State proposing a change in this area is asked to submit impact data to the Department. We then examine the average size and diversity of the State’s schools, the impact of the change on subgroup accountability (i.e., how many schools still have subgroups included in the AYP calculation), and the number of tested grades in the State.

Additional Academic Indicators for AYP

Bringing additional data and indicators into AYP calculations can help States make more thorough assessments of school performance. In addition to student performance on State assessments, States select additional academic indicators and set AYP criteria for these indicators.

At the elementary and middle school levels, the additional academic indicators vary widely among the States and include indicators such as attendance rates; retention rates; achievement on science, writing, and social studies assessments; and performance on the State's accountability system. At the high school level, NCLB requires that, at a minimum, States use the graduation rate as the additional academic indicator, but here States have the flexibility to choose even more academic indicators.

States also set the bar for school performance in meeting additional academic indicator goals. Some States set the criteria as a straight target (e.g., to make AYP a school must meet a pre-defined target), and other States set the criteria as either meeting the goal or making progress towards the goal. States can keep goals the same over the NCLB timeline or raise them over time. For example, Illinois set its initial goal for the percentage of students that will graduate with a regular diploma at 65 percent (increasing to 85 percent in 2014), while Indiana set its goal at 95 percent or measurable improvement over the previous year.

The most common recent proposed changes to accountability plans on additional indicators relate to high school graduation rates. On a case-by-case basis, States are allowed to extend to students more than the standard four-year timeline to graduate and be included in the graduation rate.

NEW DATA ON GRADUATION RATES

The Department recently released the Averaged Freshman Graduation Rate (AFGR) – a uniform definition of graduation rates calculated for each State. The figure is a comprehensive look at the percentage of students who graduate from high school on time, four years after they enter. The AFGR is formulated with currently available data collected by the U.S. Department of Education, and is comparable across States. The rate has been shown to track closely with the true on-time graduation rate. Improving the accuracy of graduation statistics will allow us to better target resources and tailor instruction for children who might otherwise fall through the cracks and eventually drop out. We will be able to see national graduation trends more clearly and to identify which States will need to improve their individual reporting. This new figure will give us direction as we push for much-needed high school reform.

<http://www.ed.gov/news/pressreleases/2005/11/11042005.html>

States such as New Jersey, New Mexico and Washington received approval to allow the following students to count in the graduation rate even if they graduate in more than four years: individual limited English proficient students who entered the United States as high school students; students with disabilities (if they are pursuing a regular diploma and additional time for graduation is specified in their individualized education programs); and students that have extended periods of approved medical leave.

New York has 20 high schools in which students attend school for five years, and upon completion receive both a high school diploma and an associate's degree. New York calculates a five-year graduation rate for these schools and uses that graduation rate for AYP purposes.

Measuring Student Progress

NCLB gives credit for significant improvement in raising the performance of the lowest-performing students in a school through the "safe harbor" provision. Similarly, the notion of an achievement index gives schools credit for moving students out of the lowest performance levels on State assessments. The safe harbor provisions and the use of an achievement index are clear means for determining how much progress is being made on the path to getting all students to proficiency by 2013-2014.

Safe Harbor Provisions

Under safe harbor, if a school misses State progress goals for the percentage of proficient students, but at the same time succeeds in reducing the number of students below proficient by at least 10 percent from the prior year, the school still makes AYP. As an example, if 40 percent of students met grade level standards last year, to make AYP this year the school must have at least 46 percent meet standards. This improvement, combined with progress on the other academic indicators and meeting the participation rate requirement, can also yield the determination that a school has made adequate progress. Every State uses this approach in its accountability decisions.

Achievement Index in AYP

Under NCLB, the Department allows States to combine data in different ways to calculate AYP. For example, States may take into account the percentage of students that improves achievement from being "below basic" to a "basic" level – not just those students reaching proficiency. Allowing schools to receive credit for improving all students' achievement is typically calculated through an index score.

The Department allows States to base AYP on an index score only when such a practice:

- 1) Does not give extra weight to students scoring above proficiency so as to mask performance in the lower achievement levels;
- 2) Can be calculated separately for reading and math and for each relevant student subgroup; and

- 3) Does not allow schools to make AYP without also increasing the percentage of students that is proficient on the assessments.

The Department has approved Massachusetts, Minnesota, Mississippi, New Mexico, New York, Oklahoma, Pennsylvania, South Carolina, and Vermont to use achievement indexes under NCLB.

Growth Models

As another way to make valid and reliable judgments about school performance, States have expressed the need to give schools credit for improving student achievement, even if students have not yet reached the proficient level on State tests. That's why it is common to hear discussions about "growth models." The Department considers the safe harbor provisions and the indexes used in AYP to be forms of growth models, but the improving sophistication of State data systems and State assessment systems is creating an infrastructure that may make even more sophisticated growth models possible.

In truth, there are several versions of growth models based on individual student level data that researchers are analyzing and a few States are using, but, to date, the Department has approved none for use in AYP. To oversimplify, a growth model measures the progress of individual students from one year to the next and holds schools accountable for that progress. By comparing data on the same students from year to year, a school may learn how well they are doing in helping students improve.

The Department has convened experts, including State accountability directors, psychometricians, and data specialists to obtain insight into growth models. Certain things are already clear. To have a sound growth model system, States must have annual data. And students must be making progress that leads to proficiency as required by law. What the Department continues to consider is how a growth model might work within the context of NCLB. The Secretary has committed to working on these issues to ensure that the necessary elements are in place and that schools can get credit for their progress.

Identification of Districts and Schools for Improvement

District Identification

NCLB recognizes that there are often systemwide challenges that need attention. In responding to these challenges, States must balance a need for overall student improvement with a corresponding need to set priorities among the school districts most in need of improvement. The Department has given flexibility to States to use a common sense and reasonable approach towards achieving that balance.

With this approach, a district is identified for improvement when it does not make AYP in the same subject and each grade span for two consecutive years.

For example, if a State has annual measurable objectives in reading for elementary schools, middle schools, and high schools, a district would be identified for improvement when it (or any of its student groups) misses AYP in reading for two consecutive years in all three grade spans. While continuing to focus primarily on schools that have specific challenges, a district will be identified when it demonstrates a systemwide need to improve.

In 2004-05, the Department approved amendments for this approach to district identification in States such as Alaska, Pennsylvania, and Tennessee. In implementing this provision, the Department has encouraged States to 1) monitor districts that have not made AYP in one grade span but have not been identified for improvement to ensure they are making the necessary curricular and instructional changes to improve achievement, and 2) take steps to ensure supplemental educational services are available to eligible students from a variety of providers throughout the State (including in districts that have not been identified for improvement but that have schools that have been in improvement status for more than one year).

School Identification

The Department allows States to set a rule that a school must not make AYP for two consecutive years in the same subject—i.e., two years in math—in order to be identified for improvement. This flexibility stems from provisions in the statute that treat reading and math independently (i.e., separate starting points and annual measurable objectives). These provisions recognize that student achievement in reading and math in a State may have very different starting points and thus the State would need to establish different trajectories to attain 100 percent proficiency.

Many States have also proposed identifying schools for improvement only if the same subgroup did not make AYP in the same subject or indicator for two consecutive years. This identification procedure is not consistent with the statute or regulations. Subgroups are not treated differently in the statute and therefore the statute does not support this proposal. The statute's accountability provisions require that each subgroup meet the State's annual objectives in each subject each year. The intent of school identification is not to lay blame on a particular group of students, as the "same subgroup/same subject" proposal would do, but to identify the instructional and academic elements that need to be improved.

Annual Measurable Objectives

States must set intermediate achievement goals through 2013-14. While the Department requires States to increase their goals in equal increments, States can determine how often their intermediate goals increase. These changes are sometimes necessary as States implement new tests and set new standards. Some States raise their intermediate goals every year, others every two or three years.

Florida, Missouri, and Virginia recently revised their annual AYP targets to increase in 10 equal performance increments between 2004-05 and 2013-14, a practice that States such as Arkansas and Washington already follow. Other States, such as Alaska, Arizona and Ohio, have created a performance trajectory that is more aggressive in later years than in the first years of NCLB implementation. Illinois's goals increase in 2005, 2007 and then annually until 2014. States may set the same trajectory for reading and math for all their schools or may establish separate achievement goals for each grade level or grade.

The Department allows States to set achievement goals by grade span or by grade. Use of this flexibility has resulted in diversity across the States. Some States have chosen to set elementary, middle, and high schools on the same performance trajectory. Other States set different goals for the elementary, middle, and high school levels. Wisconsin set one goal for all grade levels in both reading and math. West Virginia set starting points and goals for each grade level in elementary, middle, and high school. Mississippi set starting points for each tested grade and devised a formula for combining such information when making AYP decisions. Vermont, with its rural and uniquely configured schools, established starting points and goals for each type of school (such as schools that include only elementary grades or those that include all grades from K-12).

Coming Soon: Proposed Policy on Assessments for Students with Disabilities

Receiving special education services does not disqualify a student from learning and reaching grade-level standards. Special education provides additional help and support that students need to learn in school. This entails designing instruction to meet their specific needs and providing support such as physical therapy, counseling services or interpreting services to help such students learn alongside their peers and reach the same high standards as all other students.

NCLB requires that all students, including students with disabilities, be held to the same challenging grade-level content and achievement standards. Recognizing that a small number of students with the most significant cognitive disabilities may not reach grade-level standards, even with the best instruction, the Department permitted States to develop alternate achievement standards – that is, an expectation of performance that differs in complexity from grade-level achievement standards but is linked to grade-level content for these students. States are allowed to include proficient scores for up to one percent of all students in the grades tested (approximately nine percent of all students with disabilities) from assessments based on alternate achievement standards in AYP calculations. Without this flexibility, those scores would have to be measured against grade-level standards and be considered "not proficient."

Scientific research and States' experience over the past three years has shown that there are some additional students with disabilities who can make substantial progress toward grade-level achievement, given the right instruction and more time. It is estimated that an additional two percent of all students may fit this description.

RESEARCH ON STUDENTS WITH DISABILITIES

The Department has reviewed research conducted over the last four years on the issues of students with disabilities, alternate assessments, and alternate achievement standards. We know a lot more about who these students are, their needs and the range of instructional strategies and kinds of assessments appropriate for them. For more information on what the Department has learned from research and practice on instruction, assessment, and accountability for special education policy, see:

<http://www.ed.gov/policy/elsec/guid/raising/alt-assess-long.html>

The Department is developing a new proposed regulation to address modified achievement standards for these students.

Interim Flexibility Policy

The Department expects to issue proposed regulations regarding this additional group of students with disabilities by the end of the 2005 calendar year. In the meantime, for the 2004-05 school year, the Department allowed interim flexibility for those States that met Title I and Individuals with Disabilities Education Improvement Act of 2004 (IDEA) requirements directly related to achievement and instruction for the full range of students with disabilities, including:

- Statewide participation rates for students with disabilities, for purposes of measuring AYP, at or above 95 percent;
- Appropriate accommodations provided to students with disabilities who need them;
- States with IDEA Special Conditions that may not be eligible if such conditions cannot be resolved by July 1, 2005;
- Alternate assessments in reading and math provided to students with disabilities who are unable to participate in the regular assessment, even with accommodations and results from those assessments reported; and
- A State's subgroup size for students with disabilities equal to that of other student groups.

Eligible States were offered three interim options:

- Option #1: This option applies only to schools and districts that did not make AYP based solely on the students with disabilities subgroup scores, and allows States to make a mathematical adjustment to the proficiency rate for this subgroup. The Department has approved 26 State requests to use this option.
- Option #2: This option allows States to count in AYP calculations the “proficient” scores of students with disabilities assessed based on modified achievement standards, subject to a 2.0 percent cap. The Department approved Michigan and Oregon to use this option.
- Option #3: This option allows States to propose their own policy. Colorado, Maryland and Massachusetts were approved to use this option. (For more information about these three State approaches, see their Accountability Plans at: <http://www.ed.gov/admins/lead/account/stateplans03/index.html>.)

States must also demonstrate their commitment to implement policies to meet the goals of NCLB for students with disabilities, including:

- Administering a well-established assessment statewide based on modified achievement standards;
- Establishing clear guidelines for students with disabilities’ participation in the assessment based on modified achievement standards;
- Employing a documented and validated standard-setting process to define the modified achievement standards; and
- Adopting modified achievement standards and providing appropriate training for teachers.

To increase States’ ability to provide rigorous assessment, instruction, and accountability for students with disabilities, the Department of Education will direct \$14 million to improve assessments, help teachers with instruction, and conduct research for students with disabilities who are held to alternate and modified achievement standards in 2005. Additional funds will be directed in 2006.

As part of this investment, the Department plans to soon release resources to help States implement better policies to address the needs of students with disabilities based upon the best research from the Institute of Education Sciences, the National Institutes of Child Health and Human Development, and others. The Department is also investing in technical assistance centers to provide support to States and to improve the participation of students with disabilities in assessment and accountability systems. In addition, the Department is investing in research and model demonstration projects, including a national research center focusing on alternate assessments for students with the most significant cognitive disabilities.

Coming Soon: Policy on Assessments for Limited English Proficient (LEP) Students

The Department has engaged in discussions with researchers, practitioners, and educators to explore appropriate and meaningful approaches for holding schools accountable for the academic progress of children who have not grown up speaking English. NCLB is committed to helping non-native English speakers learn English and meet the same high academic content standards and expectations set by States for all students.

Under NCLB, States have responsibility for determining how best to assess their LEP students. States can offer a menu of accommodations (e.g., use of bilingual dictionaries, extra time, use of translators) or an alternative assessment (e.g., a native-language version of its assessment or a simplified English version of its assessment). NCLB allows States three years to test LEP students in language arts using a native language assessment, with an additional two years if needed on a case-by-case basis. For math, NCLB does not restrict the number of years an LEP student may take a native language assessment.

NCLB gives States flexibility in defining the students who constitute the LEP subgroup. For example, a State can define the LEP subgroup as including only those students receiving direct, daily LEP services. An example of this is North Carolina. A State could also define the group more expansively to include both students receiving direct services and students being monitored by virtue of their achievement on several important assessments.

LEP students new to the United States often have a difficult time participating in State assessments due to language barriers or the lack of prior schooling. Thus, it is often difficult to assess LEP students' content knowledge in reading in their first year of enrollment in a U.S. public school. Furthermore, since LEP students exit the LEP subgroup once they attain English language proficiency, States may have difficulty demonstrating improvements on State assessments for these students.

To address these issues, the Department expects to soon release a final regulation on flexibility for LEP students. States may amend their accountability plans to take advantage of the new flexibility.

In the meantime, the Department's transitional policy remains in place. For new arrivals to our Nation's schools, during their first year of enrollment, LEP students have the option of taking an English language proficiency assessment in lieu of the reading assessment. Students must take math tests, with accommodations as appropriate. States may include results from the math and, if given, the reading content assessments in AYP calculations. In addition, the flexibility allows States to include in the LEP subgroup when making AYP decisions, for up to two years, those students who attained English proficiency ("formerly LEP" students).

Supplemental Educational Service Pilots

Supplemental educational services (SES) is an important component of NCLB, giving low-income parents real options to obtain free tutoring for their children. This extra help for students in schools in need of improvement, corrective action, and restructuring can be an important component of school improvement efforts.

Unfortunately, there is evidence from across the country that SES is not being implemented to its full potential. Too few eligible students are receiving SES. According to several studies, only 10 to 20 percent of eligible students across the country participated in SES during the 2003-04 school year.

Because SES is a new initiative under NCLB, we have learned valuable lessons in its first few years of implementation. SES programs do not become successful overnight. Setting up a successful SES program takes coordination by States, school districts, providers, and parents. The Department wants to learn more by testing some new approaches this year.

In order to increase the delivery and quality of SES to students, the Department is initiating a set of flexibility agreements, beginning with a series of pilots in a select number of school districts across the country. Pilot programs will fulfill two key priorities: they will ensure that more eligible students are receiving services, and they will help to ensure that there is better information on how effective SES programs are in improving the academic achievement of students receiving services. The Department hopes to gain valuable knowledge from these pilot programs – knowledge that can be shared with other States and districts to improve the quality and delivery of these services.

Changing the Order of SES and Choice Interventions

NCLB provides that the interventions for schools identified as in need of improvement after not making AYP for at least two consecutive years begin with making school-choice options available to all students, followed by access to SES if the school does not make AYP for another year.

Many in the education community believe that students ought to get tutoring first and then have the option for public school choice. In order to test some theories about the ordering of these interventions, the Department has initiated a pilot with Virginia.

This pilot allows Virginia to reverse the order in which public school choice and SES are offered in the school improvement timeline in several divisions (districts). SES will be offered to low-income students in schools in the pilot divisions that are in year one improvement status (the school missing AYP for two years in a row). These divisions would then offer SES and public school choice to eligible students if the school moves to the second year of school improvement and beyond.

In granting this pilot, the Department looked for the following: gains in student performance; an absence of conditions on the State accountability plan; implementation of grades 3 through 8 testing; and the timely release of improvement decisions. Virginia also has taken appropriate steps to implement fully the highly qualified teacher provisions.

The pilot is for one year only, and will be re-evaluated at the end of the 2005-06 year after the results are seen. During that time Virginia has agreed to:

- Ensure that more students participate in SES and public school choice;
- Provide the Department with information on the academic achievements of students receiving SES by school;
- Provide parents in pilot divisions access to a variety of SES providers;
- Require pilot divisions to notify parents about SES within the first few weeks of the school year and provide SES shortly thereafter; and
- Require pilot divisions to offer continuous enrollment or multiple enrollment periods for SES throughout the 2005-06 school year until each pilot division spends the required funds or all eligible students interested in SES and public school choice are served.

Districts in Need of Improvement Providing SES

Another area where the Department has initiated SES pilots is in permitting districts that have been identified for improvement to serve as SES providers, even though these districts would ordinarily be ineligible.

The Department has worked with the Council of the Great City Schools to enter into flexibility agreements with select urban school districts that are committed to providing SES to more eligible children. The agreements will serve to increase student participation in, and strengthen the quality of, SES programs in these districts. The Department has initiated pilot programs in three urban districts – Chicago, Boston, and New York City – testing the “district in need of improvement” theory. The Department is allowing the districts to provide supplemental services to families, even though the districts have been identified as needing improvement, which makes it ineligible to be a service provider under NCLB. The theory is that even though the district is in improvement, it may still serve as a provider and as a provider, more students will receive access to SES through the district and other approved programs.

In return for this flexibility, the pilot districts have agreed to:

- Provide early notification to parents of their children’s eligibility to participate in SES;
- Extend enrollment periods so that parents can make the best choice for their child;
- Permit use of district facilities by non-district providers for a reasonable fee; and
- Provide academic data to an independent third party to evaluate the effectiveness of SES services.

Meeting Highly Qualified Teacher Requirements

Teacher quality is one of the most important factors in improving student achievement and eliminating achievement gaps. According to NCLB, a “highly qualified teacher” is one who holds at least a bachelor’s degree, has obtained full State certification, and has demonstrated knowledge in the core academic subjects he or she teaches. The Individuals with Disabilities Education Improvement Act of 2004 (IDEA) reinforced this goal by adopting related requirements for special education teachers.

Despite much progress, the Department recognizes there is still a lot of work to do to ensure that each State meets the goal that every child is taught by a highly qualified teacher. Personnel decisions are made at the State and local levels, and the law relies on education leaders in the States to make the best educational decisions for improving student achievement.

The Department will hold all States accountable for implementing the law and making a good faith effort to reach NCLB’s 100 percent goal by the end of the 2005-06 school year. Provided they are doing so, States will not lose federal funds. If States meet the law’s requirements and the Department’s expectations but fall short of having highly qualified teachers in every classroom, these States are expected to renegotiate a clear plan with concrete action steps to reach the goal within the following year. The Department will measure State efforts based on four criteria.

The Department of Education provided various pieces of guidance on implementing the highly qualified teacher provisions since the enactment of the law.

- (August 5, 2005) **Improving Teacher Quality Non-Regulatory Guidance** <http://www.ed.gov/programs/teacherqual/guidance.pdf>
- (March 31, 2004) **NCLB HQT Flexibility** <http://www.ed.gov/nclb/methods/teachers/hqtflexibility.html>
- (October 21, 2005) **HQT Enforcement & Expectations** <http://www.ed.gov/policy/elsec/guid/secletter/051021.html>

As a first requirement in each State’s implementation of these provisions, the State must have a definition of a highly qualified teacher that is consistent with the law, and it must use this definition to determine the status of all of its teachers. For new elementary teachers, States must have a test in place to assess subject-area knowledge in the key subjects in the standard elementary school curriculum. Further, for determining whether new middle and high school teachers have adequate subject-matter knowledge, a State must either test their content knowledge or require those teachers to have a college major, a major equivalent, or an advanced degree or credential, in each subject taught. If a State has charter schools, it must identify teachers who are highly qualified by determining whether teachers in these schools have, at a minimum, a bachelor’s degree and have demonstrated subject-area competence in the same manner as other teachers do.

Certification requirements may be waived for teachers in charter schools, if permitted by State law. For special education teachers who provide instruction in core academic subjects, they can be determined to be highly qualified if they meet either the requirements on NCLB or those established in IDEA.

As a second requirement, States and districts must provide parents and the public with accurate, complete reports on the number and percentage of classes in core academic subjects taught by highly qualified teachers. States and districts must provide these data to parents through school, district, and State report cards. In addition, parents of students in schools receiving Title I funds must be notified that they may receive information regarding the professional qualifications of their children's teachers upon request. These parents also must be notified if their children have been assigned to or taught for four or more consecutive weeks by a teacher who is not highly qualified.

Complete and accurate reporting of teacher data to the Department is the third requirement. In early 2006, States must submit complete and accurate data to the Secretary on their Consolidated State Performance Report (CSPR).

Accurate data will ensure that school officials know which teachers need additional support, and will enable policymakers to determine whether or not resources are being used effectively to address real problems.

REASONABLE EXPECTATIONS

In determining “good faith efforts” on highly qualified teacher requirements, the Department will examine:

- (1) The alignment and implementation of the State’s “highly qualified teacher definition” as required by NCLB;
- (2) How the States reports to parents and the public on classes taught by highly qualified teachers;
- (3) The completeness and accuracy of teacher data reported by States to the Department; and
- (4) The steps States have taken to ensure that poor and minority students have equal access to experienced and qualified teachers.

The fourth requirement is that States take action to ensure that inexperienced, unqualified, or out-of-field teachers do not teach poor or minority children at higher rates than other children.

DATA WORKSHOPS AVAILABLE

The Department has a new outreach program to assist States with improving the quality of the highly qualified teacher data that must be collected and submitted in the next CSPR. To ensure that States are prepared to submit comprehensive and accurate data to the Secretary, the Department is sponsoring four regional data quality workshops. The one-day workshops are designed to accomplish the following three goals:

- Clarify the federal reporting requirements, including proposed changes to the next CSPR;
- Provide a forum for States to share effective reporting practices with one other; and
- Offer practical solutions for improving data collection systems.

The Department hosted two sessions in October and will host two additional sessions – November 17 in Los Angeles and December 8 in Washington, D.C. All States are invited to attend.

Given the evidence that teachers are a critical factor in improving student achievement, it is in the best interest of each State to ensure that students who need the most academic support receive instruction from the most effective teachers.

If a State is falling short of the 100 percent goal, but meets all four of the requirements discussed earlier, the Department will accept, by May 31, 2006, a revised plan, based on its data, for reaching the HQT goal in the 2006-07 school year.

The Department understands that there are circumstances in which having a highly qualified teacher in every classroom will be a continuing challenge to many States and districts, including, but not limited to, small rural schools, self-contained special education classes, and hard-to-fill advanced secondary courses. Moreover, for some States and districts, the effects of recent hurricanes will have a significant impact on this work, and the Department will certainly take that into consideration.

Rural Flexibility

The Department recognizes and appreciates that teachers in small, rural school districts are often assigned to teach multiple subjects, and thus face unique challenges in meeting the highly qualified provisions. As a result, they may need additional time to meet the requirements in all subjects they teach.

Teachers who were employed in these districts prior to April 1, 2004, and were highly qualified in at least one core academic subject, have until the end of the 2006-07 school year to become highly qualified in the additional subjects they teach. Multiple subject teachers hired in eligible rural districts after March 31, 2004, must be highly qualified in at least one subject that they will teach, and have three years from their date of hire to demonstrate subject-matter competency in each of their other assigned subjects.

Districts eligible for the Small Rural School Achievement (SRSA) program are eligible for this additional flexibility. Almost 4,900 districts, about one-third of all districts nationally, meet these criteria for small, rural districts. A list of the districts currently eligible for this extended teacher preparation time is available on the Department's website at: www.ed.gov/programs/reapsrsa/eligible04/index.html.

In order to use this flexibility, districts need to: (1) ensure that all teachers in core academic subjects are highly qualified in at least one core academic subject they teach; (2) provide high-quality professional development that increases the teachers' content knowledge in the additional subjects they teach; and (3) provide mentoring or a program of intensive supervision that consists of structured guidance and regular, ongoing support so that teachers become highly qualified in the additional core academic subject(s) they teach.

Aligning Timeline for Highly Qualified Paraprofessionals

NCLB requires that paraprofessionals funded with Title I funds and who provide instructional support meet certain standards. Qualified paraprofessionals must have completed two years of study at an institution of higher education; obtained an associate's degree; *or* met a rigorous standard of quality and demonstrated knowledge of certain core subjects. States have the flexibility to define the rigorous standard of quality and means for demonstrating knowledge of core subjects. Current paraprofessionals were originally required to meet these qualification requirements by January 2006. In June of this year, the Department adjusted the time frame. For consistency, the Department aligned its monitoring and enforcement efforts of States for both the highly qualified teacher and paraprofessional provisions of the law.

Informing the Road Ahead

The Department understands that at the very core of this work is a commitment to collecting, sharing, and utilizing better educational data. The reporting of disaggregated data has been one of the hallmarks of NCLB from day one. As we look at the challenges ahead, the sharing and public reporting of educational data will continue to be among the things the Department considers in reviewing State policies, particularly when allowing alternate policy options to implement specific requirements of NCLB. Sound data will continue to be one of the things the Department expects in exchange for extending flexibilities.

For these reasons, we have been working directly with States to develop a better data collection system for the Department, complete with a set of deeper analytic tools that also will be available to the States, to help improve education and educational policy at all levels. This new system, EDFacts, will allow the Department to improve the use of data in policy-making and program management. It will enable us to highlight the areas that truly are improving and getting more kids to proficiency. Better, higher-quality data about all aspects of education has always been critical to NCLB, and will continue to help inform our actions as we help States achieve the commitment and promise of bringing all kids to proficiency.

Looking Down the Road

Together, the U.S. Department of Education and States are staking out new territory as we head toward 2013-14. The Department wants to be clear about policy decisions and options, share resources with States on the areas where there is flexibility, and engage in productive discussions about meeting the goals of NCLB.

NLCB's "bright lines" are important markers on the road to closing achievement gaps and ensuring that all students are learning. We must work together to make school systems accountable, ensure that information and options are available to families, and support highly qualified teachers. As policymakers we have a responsibility to ensure that our Nation helps to prepare students to compete in the global economy. We must focus on results, set clear expectations and invest our resources on closing the achievement gap by 2014.